

SERVICE CONTRACT

BETWEEN THE

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH LIFESPAN HEALTH UNIT, NEBRASKA COLON
CANCER PROGRAM
AND**

**THE CITY OF LINCOLN on behalf of the
LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT**

This contract is entered into by and between the Nebraska Department of Health and Human Services, **DIVISION OF PUBLIC HEALTH LIFESPAN HEALTH UNIT, NEBRASKA COLON CANCER PROGRAM** (hereinafter "DHHS"), and Lincoln-Lancaster County Health Department (hereinafter "LPHD").

PURPOSE. The purpose of this contract is: To distribute Fecal Occult Blood Test (FOBT) kits for screening. To increase education and awareness of the need for colorectal cancer screening in men and women over the age of 50. Contract seeks to increase capacity across the state to increase the number of men and women 50 years of age and older who are appropriately screened for colon cancer in all populations, but especially in those populations of greatest need.

I. TERM AND TERMINATION

- A. **TERM.** This contract is in effect from September 17, 2012 until June 30, 2014.
- B. **TERMINATION.** This contract may be terminated at any time upon mutual written consent or by either party for any reason upon submission of written notice to the other party at least Thirty (30) days prior to the effective date of termination. DHHS may also terminate this contract in accord with the provisions designated "FUNDING AVAILABILITY" and "BREACH OF CONTRACT." In the event either party terminates this contract, the LPHD shall provide to DHHS all work in progress, work completed, and materials provided to it by DHHS in connection with this contract immediately.

II. CONSIDERATION

- A. **TOTAL PAYMENT.** DHHS shall pay the LPHD a total amount not to exceed \$50,000.00 (Fifty thousand dollars) for the services specified herein.
- B. **PAYMENT STRUCTURE.** Payment shall be structured as follows: Payment shall be made upon receipt of invoice(s) for services rendered and structured based on the fees and receipt of deliverables as described in Attachment A.

- C. Automated Clearing House (ACH) Enrollment Form Requirements for Payment.
The vendor shall complete and sign the State of Nebraska ACH Enrollment Form and obtain the necessary information and signatures from their financial institution. The completed form must be submitted before payments to the vendor can be made. Download ACH Form:
http://www.das.state.ne.us/accounting/nis/address_book_info.htm

III. SCOPE OF SERVICES

- A. The LPHD shall do the following:
- a. Submit a report of community recommendations annually based on input and findings from community based coalitions. Reports should be inclusive of small media campaign plans for increasing awareness and promotion of FOBT usage as well as a plan for FOBT distribution.
 - b. Conduct annual community-based campaigns to increase awareness and compliance with colorectal cancer screening guidelines from the U.S. Preventive Services Task Force. Campaigns are to be conducted utilizing guidance from DHHS and incorporating input and findings from the community-based coalitions.
 - c. Develop and submit FOBT Distribution Plans to DHHS annually, inclusive of plans for follow up of non-returned kits as well as develop and submit Community Colon Cancer Campaign Promotion Plans to DHHS annually.
 - d. Distribute at least 2,000 FOBT kits in the community in accordance with DHHS approved plan at least annually during March.
 - e. Provide bi-annual updates to describe progress and challenges in carrying out activities for education and awareness as well as implementing FOBT distribution and screening.
 - f. Complete at least 100 intercept surveys pre and post community campaign according to DHHS methodology.
 - g. Utilize statewide FOBT registry to monitor and track FOBT distribution, results, and follow up, entering data within 7 days.
 - h. Attend two NCP Resource Trainings- scheduled for October 11, 2012 and in the fall of 2013, TBA.
- B. DHHS shall do the following:
1. Review and approve written Community Recommendations/FOBT Distribution Plans, Community Promotion Plans and Community Campaign Progress Updates submitted by the LPHD.
 2. Provide technical assistance and resources as needed.
 - i. Provide Statewide Media Campaign materials for use by coalitions.
 - ii. Provide access to MIYO web-based graphic design soft-ware.
 - iii. Coalition skill training.
 3. Provide training and resource materials via The Office of Women's and Men's Health website regarding media campaigns, FOBT distribution, and evaluation.

4. Provide monthly screening rates summary reports to the contractor that shows the current distribution rates. This will allow DHHS and the LPHD to track the current screening rates.
5. Provide intercept survey format and training.
6. Provide training on state FOBT screening registry.

IV. GENERAL PROVISIONS

A. ACCESS TO RECORDS AND AUDIT RESPONSIBILITIES.

1. All LPHD books, records, and documents regardless of physical form, including data maintained in computer files or on magnetic, optical or other media, relating to work performed or monies received under this contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by DHHS. LPHD shall maintain all records for five (5) years from the date of final payment, except that records that fall under the provisions of Health Insurance Portability and Accountability Act (HIPAA) shall be maintained for six (6) full years from the date of final payment. In addition to the foregoing retention periods, all records shall be maintained until all issues related to an audit, litigation or other action are resolved to the satisfaction of DHHS. All records shall be maintained in accordance with generally accepted business practices.
2. The LPHD shall provide DHHS any and all written communications received by the LPHD from an auditor related to LPHD's internal control over financial reporting requirements and communication with those charged with governance including those in compliance with or related to Statement of Auditing Standards (SAS) 112 *Communicating Internal Control related Matters Identified in an Audit* and SAS 114 *The Auditor's Communication with Those Charged With Governance*. The LPHD agrees to provide DHHS with a copy of all such written communications immediately upon receipt or instruct any auditor it employs to deliver copies of such written communications to DHHS at the same time copies are delivered to the LPHD, in which case the LPHD agrees to verify that DHHS has received a copy.
3. The LPHD shall immediately correct any material weakness or condition reported to DHHS in the course of an audit and notify DHHS that the corrections have been made.
4. In addition to, and in no way in limitation of any obligation in this contract, the LPHD shall be liable for audit exceptions, and shall return to DHHS all payments made under this contract for which an exception has been taken or which has been disallowed because of such an exception, upon demand from DHHS.
5. The above provisions shall survive termination of the contract.

B. AMENDMENT. This contract may be modified only by written amendment, executed by both parties. No alteration or variation of the terms and conditions of this contract shall be valid unless made in writing and signed by the parties.

- C. ANTI-DISCRIMINATION. The LPHD shall comply with all applicable local, state and federal statutes and regulations regarding civil rights and equal opportunity employment, including Title VI of the Civil Rights Act of 1964; the Rehabilitation Act of 1973, Public Law 93-112; the Americans With Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, NEB. REV. STAT. §§ 48-1101 to 48-1125. Violation of said statutes and regulations will constitute a material breach of contract. The LPHD shall insert this provision in all subcontracts.
- D. ASSIGNMENT. The LPHD shall not assign or transfer any interest, rights, or duties under this contract to any person, firm, or corporation without prior written consent of DHHS. In the absence of such written consent, any assignment or attempt to assign shall constitute a breach of this contract.
- E. ASSURANCE. If DHHS, in good faith, has reason to believe that the LPHD does not intend to, is unable to, or has refused to perform or continue to perform all material obligations under this contract, DHHS may demand in writing that the LPHD give a written assurance of intent to perform. Failure by the LPHD to provide written assurance within the number of days specified in the demand may, at DHHS's option, be the basis for terminating this contract.
- F. BREACH OF CONTRACT. DHHS may terminate the contract, in whole or in part, if the LPHD fails to perform its obligations under the contract in a timely and proper manner. DHHS may, by providing a written notice of default to the LPHD, allow the LPHD to cure a failure or breach of contract within a period of thirty (30) days or longer at DHHS's discretion considering the gravity and nature of the default. Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery. Allowing the LPHD time to cure a failure or breach of contract does not waive DHHS's right to immediately terminate the contract for the same or different contract breach which may occur at a different time. DHHS may, at its discretion, contract for any services required to complete this contract and hold the LPHD liable for any excess cost caused by LPHD's default. This provision shall not preclude the pursuit of other remedies for breach of contract as allowed by law.
- G. CONFIDENTIALITY. Any and all information gathered in the performance of this contract, either independently or through DHHS, shall be held in the strictest confidence and shall be released to no one other than DHHS without the prior written authorization of DHHS, provided, that contrary contract provisions set forth herein shall be deemed to be authorized exceptions to this general confidentiality provision. This provision shall survive termination of this contract.
- H. CONFLICTS OF INTEREST. In the performance of this contract, the LPHD shall avoid all conflicts of interest and all appearances of conflicts of interest. The LPHD shall immediately notify DHHS of any such instances encountered so that other arrangements can be made to complete the work.
- I. DATA OWNERSHIP AND COPYRIGHT. All data collected as a result of this project shall be the property of DHHS. The LPHD shall not copyright any of the copyrightable material produced in conjunction with the performance required under

this contract without written consent from DHHS. DHHS hereby reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the copyrightable material for state government purposes. This provision shall survive termination of this contract.

- J. DEBARMENT, SUSPENSION OR DECLARED INELIGIBLE. The LPHD certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- K. DOCUMENTS INCORPORATED BY REFERENCE. All references in this contract to laws, rules, regulations, guidelines, directives, and attachments which set forth standards and procedures to be followed by the LPHD in discharging its obligations under this contract shall be deemed incorporated by reference and made a part of this contract with the same force and effect as if set forth in full text, herein.
- L. DRUG-FREE WORKPLACE. LPHD certifies that it maintains a drug-free workplace environment to ensure worker safety and workplace integrity. LPHD shall provide a copy of its drug-free workplace policy at any time upon request by DHHS.
- M. FEDERAL FINANCIAL ASSISTANCE. The LPHD shall comply with all applicable provisions of 45 C.F.R. §§ 87.1-87.2. The LPHD shall not use direct federal financial assistance to engage in inherently religious activities, such as worship, religious instruction, and/or proselytization.
- N. FORCE MAJEURE. Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under this contract due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of this contract. The party so affected shall immediately give notice to the other party of the Force Majeure Event. Upon such notice, all obligations of the affected party under this contract which are reasonably related to the Force Majeure Event shall be suspended, and the affected party shall do everything reasonably necessary to resume performance as soon as possible. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under this contract.
- O. FUNDING AVAILABILITY. DHHS may terminate the contract, in whole or in part, in the event funding is no longer available. Should funds not be appropriated, DHHS may terminate the contract with respect to those payments for the fiscal years for which such funds are not appropriated. DHHS shall give the LPHD written notice thirty (30) days prior to the effective date of any termination. The LPHD shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the LPHD be paid for a loss of anticipated profit.
- P. GOVERNING LAW. The contract shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against DHHS or the State

of Nebraska regarding this contract shall be brought in Nebraska administrative or judicial forums as defined by Nebraska State law. The LPHD shall comply with all Nebraska statutory and regulatory law.

Q. HOLD HARMLESS.

1. The LPHD shall defend, indemnify, hold, and save harmless the State of Nebraska and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State of Nebraska, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the LPHD, its employees, subcontractors, consultants, representatives, and agents, except to the extent such LPHD liability is attenuated by any action of the State of Nebraska which directly and proximately contributed to the claims.
2. DHHS's liability is limited to the extent provided by the Nebraska Tort Claims Act, the Nebraska Contract Claims Act, the Nebraska Miscellaneous Claims Act, and any other applicable provisions of law. DHHS does not assume liability for the action of its LPHDs.
3. The above provisions shall survive termination of the contract.

R. INDEPENDENT CONTRACTOR. The LPHD is an Independent Contractor and neither it nor any of its employees shall for any purpose be deemed employees of DHHS. The LPHD shall employ and direct such personnel as it requires to perform its obligations under this contract, exercise full authority over its personnel, and comply with all workers' compensation, employer's liability and other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer providing services as contemplated by this contract.

S. INVOICES. Invoices for payments submitted by the LPHD shall contain sufficient detail to support payment. Any terms and conditions included in the LPHD's invoice shall be deemed to be solely for the convenience of the parties.

T. INTEGRATION. This written contract represents the entire agreement between the parties, and any prior or contemporaneous representations, promises, or statements by the parties, that are not incorporated herein, shall not serve to vary or contradict the terms set forth in this contract.

U. LOBBYING.

1. No Federal appropriated funds shall be paid, by or on behalf of the LPHD, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract or (a) the awarding of any Federal agreement; (b) the making of any Federal grant; (c) the entering into of any cooperative agreement; and (d) the extension, continuation,

renewal, amendment, or modification of any Federal agreement, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, the LPHD shall complete and submit Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

V. NEBRASKA TECHNOLOGY ACCESS STANDARDS.

The LPHD shall review the Nebraska Technology Access Standards, found at <http://www.nitc.ne.gov/standards/accessibility/tacfinal.html> and ensure that products and/or services provided under the Contract comply with the applicable standards. In the event such standards change during the LPHD's performance, the State may create an amendment to the Contract to request that Contract comply with the changed standard at a cost mutually acceptable to the parties.

- W. NEW EMPLOYEE WORK ELIGIBILITY STATUS. The LPHD shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the LPHD is an individual or sole proprietorship, the following applies:

1. The LPHD must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at www.das.state.ne.us.
 2. If the LPHD indicates on such attestation form that he or she is a qualified alien, the LPHD agrees to provide the US Citizenship and Immigration Services documentation required to verify the LPHD's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
 3. The LPHD understands and agrees that lawful presence in the United States is required and the LPHD may be disqualified or the contract terminated if such lawful presence cannot be verified as required by NEB. REV. STAT. § 4-108.
- X. PUBLIC COUNSEL. In the event LPHD provides health and human services to individuals on behalf of DHHS under the terms of this contract, LPHD shall submit to the jurisdiction of the Public Counsel under NEB. REV. STAT. §§ 81-8,240 through 81-8,254 with respect to the provision of services under this contract. This provision shall not apply to contracts between DHHS and long-term care facilities subject to

the jurisdiction of the state long-term care ombudsman pursuant to the Long-Term Care Ombudsman Act. This provision shall survive termination of the contract.

- Y. RESEARCH. The LPHD shall not engage in research utilizing the information obtained through the performance of this contract without the express written consent of DHHS. The term "research" shall mean the investigation, analysis, or review of information, other than aggregate statistical information, which is used for purposes unconnected with this contract. This provision shall survive termination of the contract.
- Z. SEVERABILITY. If any term or condition of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this contract did not contain the particular provision held to be invalid.
- AA. SUBCONTRACTORS. The LPHD shall not subcontract any portion of this contract without prior written consent of DHHS. The LPHD shall ensure that all subcontractors comply with all requirements of this contract and applicable federal, state, county and municipal laws, ordinances, rules and regulations.
- BB. TIME IS OF THE ESSENCE. Time is of the essence in this contract. The acceptance of late performance with or without objection or reservation by DHHS shall not waive any rights of DHHS nor constitute a waiver of the requirement of timely performance of any obligations on the part of the LPHD remaining to be performed.

NOTICES. Notices shall be in writing and shall be effective upon receipt. Written notices, including all reports and other written communications required by this contract shall be sent to the following addresses:

FOR DHHS:

Melissa D. Leypoldt, RN
NE Dept. Health and Human Services
301 Centennial Mall South
Lincoln, NE 68509-4817
402-471-0314

FOR LPHD:

David Humm
Lincoln-Lancaster County Health
Department
3140 N St.

Lincoln, NE 68510
402-441-8043

IN WITNESS THEREOF, the parties have duly executed this contract hereto, and each party acknowledges the receipt of a duly executed copy of this contract with original signatures.

FOR DHHS:

FOR THE CITY OF LINCOLN:

Joann Schaefer, MD
Chief Medical Officer, State of Nebraska
Director, Division of Public Health
Department of Health and Human Services

Chris Beutler
Mayor of Lincoln
City of Lincoln

DATE: _____

DATE: _____

Schedule of Deliverable Costs

Labor Costs			
Type	FY 2012-2013 Date Due	FY 2013-2014 Date Due	Fee per year
NCP Resource Training	10/11/12	TBD Fall 2013	\$500
Colon Cancer Campaign Community Recommendations Report/FOBT Distribution Plan	1/1/13	1/1/14	\$2000
Community Colon Cancer Campaign Promotion Plan	1/1/13	1/1/14	\$1000
Community Campaign Implementation Progress Report	1/1/13	1/1/14	\$500
25 Pre-campaign intercept surveys	3/1/13	3/1/14	\$250
Community Campaign Implementation Progress Report	6/30/13	6/30/14	\$500
25 Post-campaign intercept surveys	6/30/13	6/30/14	\$250
2012-2013 FOBT Distribution Activities – see table below	6/30/13	6/30/14	\$20,000

Number of kits to distribute	FY 2012-2013 Funding	FY 2013-2014 Funding
100-300	\$3,500	\$3,500
<500	\$5,500	\$5,500
>1000	\$20,000	\$20,000

Fiscal year 2012-2013 services need to be invoiced by June 30, 2013. Fiscal year 2013-2014 services need to be invoiced by June 30, 2014.